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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 17th January 2015

No. 523—li/1(B)-52/2009(Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 21st October 2014 in Industrial Dispute Case No. 43 of 2012 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Kandoi Automobiles (Pvt.) Ltd., Professor Para, Cuttack-12 and its Workman Shri Ashok Kumar Biswal was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 43 OF 2012

Dated the 21st October 2014

Present :

Shri S. K. Sahoo, O.S.J.S. (Jr. Branch),
Presiding Officer, Labour Court, Bhubaneswar.

Between :

The Managing Director,
M/s Kandoi Automobiles (P) Ltd., Head Office,
Ashray Apartment, Flat Nos. B-102 and 103,
2nd Floor, Professor Para, Cuttack - 12. . . First Party—Management

And

Shri Ashok Kumar Biswal,
S/o Late Bauribandhu Biswal,
At Nuagaon, P. O. Salagaon,
P. S. Choudwar, Dist. Cuttack. . . Second Party—Workman

Appearances :

None . . For the First Party—Management

Shri T. Lenka, Shri S. N. Biswal, Auth. Repts. . . For the Second Party—Workman

AWARD

The Government of Odisha in exercise of powers conferred by sub-section (5) of Section 12 read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the matter in dispute to this Court vide Order No. 8392—li-1(B)-52/2009-LESI., dated the 3rd October 2012 of the Labour and E. S. I. Department for adjudication.

2. The terms of reference is as follows :—

“Whether the termination of services of Shri Ashok Kumar Biswal, Helper by the Management of M/s Kandoi Automobiles (P) Ltd. with effect from the 1st August 2008 is legal and/or justified ? If not, what relief Shri Biswal is entitled to ?”.

3. The case of the second party workman is that he had joined under the first party management as Mechanic Helper in the year 1996 at the factory situated at New Industrial Estate, Jagatpur, Cuttack and continue as such till the 31st July 2008. During his service he was covered under E. S. I. Scheme in the year 1998, in the same year E. P. F. Scheme was applicable to him. Without any reason on the 1st August 2008 when he went to perform his duty he was refused. He requested the first party management several times for his reinstatement but, in vain. So, on the 5th August 2008 he has raised an Industrial Dispute before D. L. O., Cuttack regarding his illegal termination from his service by way of refusal. Due to the adamant behaviour of the first party, the second party workman has completed more than 240 days in every calendar year from the year of his appointment till termination in the year 2008. His last monthly salary drawn was Rs. 2250. The first party management has not complied the provisions of Section 25-F of the Industrial Disputes Act, 1947. Hence this case for reinstatement in service and payment of back wages to the second party workman. In spite of notice served on the first party management he did not turn up to contest the case, for which it was set *ex parte* vide Order No. 13, dated the 4th July 2014.

4. The second party workman is examined as W. W. 1 and Exts. 1 to 6 are marked. Ext. 1 is the E. S. I. card of the second party, Exts. 2, 3 and 4 are E. P. F. slips. Ext. 5 is the copy of the letter issued by the second party to D. L. O., Cuttack, dated the 5th August 2008. Ext. 6 is the copy of the letter, dated the 25th August 2008 issued by the General Secretary of Jagatpur Industrial Workers Union to the first party management.

5. The second party workman Shri Ashok Kumar Biswal is examined as W. W. 1. In his affidavit evidence he has deposed that in the year 1996 he joined as a Mechanic Helper under the first party management in a Factory situated at Jagatpur, New Industrial Estate, Cuttack and continued till the 31st July 2008. From paragraph 1 of his affidavit evidence it transpires that he was covered under the E. S. I. and E. P. F. Scheme in the year 1998. At paragraph 4 of his affidavit evidence he further deposed that on the 1st August 2008 while he had been to perform his duty, the first party management refused him. Admittedly no enquiry was conducted nor the management has followed the procedure provided under Section 25-F of the I. D. Act, 1947 before the refusal of service. At the time of termination the second party was getting Rs. 2,250 per month as his salary. He had completed more than 240 days of work in each year of his service. It is also clear that the

first party management has paid a deaf year towards the approaches of the second party workman for his reinstatement in service and payment of back wages, for which the second party had raised and Industrial Dispute before the D. L. O., Cuttack on the 5th August 2008. Ext. 5 is the copy of the application filed by the second party before the D. L. O., Cuttack on the 5th August 2008. Ext. 1 is the Identity Card which has been issued by the E. S. I. Corporation in favour of the second party. On perusal of the same it transpires that the second party was an employee under the first party organisation and he was covered under the E. S. I. Scheme with effect from the 1st December 1998. Exts. 2, 3 and 4 are the E. P. F. slips which shows the deduction of the contribution from the salary of the second party under the scheme. On perusal of Ext. 6 it further transpires that the General Secretary of Jagatpur Industrial Workers Union had issued a letter on the 25th August 2008 to the first party organisation for reinstatement of the workman along with payment of back wages. From the evidence of W. W. 1 and the documents proved by him it is clear that the second party was engaged as a Mechanic Helper under the first party organisation in the year 1996 and continued in service till the 31st July 2008 but without any reason on the 1st August 2008 the first party organisation refused him to work. Admittedly no enquiry was conducted against the second party nor the first party organisation has complied Section 25-F of the I. D. Act, 1947. The refusal of service of the second party by the first party organisation amounts to termination. As the first party organisation has not complied the provisions of Section 25-F of the I. D. Act, 1947, the termination of the second party workman is neither legal nor justified. The second party is entitled for reinstatement in service with full back wages and service benefits. The first party is directed to implement the Award within one month from the publication of the Award failing which the second party is entitled for interest at the rate of 10% per annum on the money due to him from the first party.

The reference is disposed of accordingly.

Dictated and corrected by me.

S. K. SAHOO
21-10-2014
Presiding Officer
Labour Court, Bhubaneswar

S. K. SAHOO
21-10-2014
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
M. NAYAK
Under-Secretary to Government